

**Before the State of South Carolina
Department of Insurance**

In the matter of:)

SCDI File Number 2001-105721

Gary K. Sweeting,)

Consent Order

Imposing Administrative Penalty

135 White Oak Drive)

Greenville, South Carolina 29607.)

_____)
This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Gary K. Sweeting, a licensed South Carolina resident insurance agent.

Upon review of this matter, I hereby find as fact that Sweeting failed to promptly remit a customer's insurance premiums to the insurer. Sweeting contends that he held the premiums because the customer could not decide if she wanted a whole or term policy. Sweeting further contends that during this time period the customer insisted that he shop around and find her the lowest possible rates. Nevertheless, Sweeting's actions can ultimately lead to the revocation of his license to transact the business of insurance as an agent in South Carolina following a public hearing at the Administrative Law Judge Division pursuant to S.C. Code Ann. § 38-43-130 (Supp. 2000).

Prior to the initiation of any administrative proceedings against him, Sweeting and the Department agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision, rather than to proceed toward a formal public hearing. The consensual recommendation was that, in lieu of the Department seeking to revoke Sweeting's resident insurance agent license, he would waive his right to a public hearing and immediately pay an administrative fine in the total amount of \$500.00.

Section § 38-43-130 states, in pertinent part, that the Director of Insurance may revoke an agent's license "when it appears that an agent...has violated this title or any regulation promulgated by the Department, or has willfully deceived or dealt unjustly with the citizens of this State."


After a thorough review of the record, and pursuant to my findings of fact, I hereby conclude as a matter of law that Sweeting has violated the law governing licensed agents. As a result, I can now take administrative disciplinary action against his resident insurance agent license. However, under the discretionary authority provided to me within S.C. Code Ann. § 38-43-130 (Supp. 2000), and after carefully considering the recommendations of the parties, I hereby impose against Sweeting an administrative fine in the total amount of \$500.00. Sweeting must pay that fine within ten days of

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GENERAL COUNSEL

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STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE

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Gary K. Sweeting.

the date of my signature upon this consent order. If he does not timely pay that total fine amount his resident insurance agent license will be immediately revoked without any further disciplinary proceedings.

The parties have reached this agreement in consideration of the Department having never taken any administrative disciplinary action against Sweeting before, because he did not keep the monies for his personal use, and because he has made restitution to the customer. The parties expressly agree and understand Sweeting's payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter.

By his signature upon this consent order, Sweeting acknowledges that he understands that this administrative order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2000). Nothing contained within this administrative order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement officer or judicial officer. Nothing contained within this administrative order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110 (Supp. 2000).

It is, therefore, ordered that Sweeting shall, within ten days of the date of my signature on this consent order, pay through the Department an administrative fine in the total amount of \$500.00.

It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states and a copy be placed in Sweeting's licensing file.

This consent order becomes effective as of the date of my signature below.



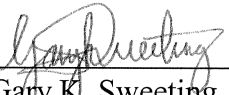
Ernst N. Csiszar
Director

07/19/01, 2001, at
Columbia, South Carolina



Gary K. Sweeting.

I CONSENT:



Gary K. Sweeting
135 White Oak Drive
Greenville, South Carolina 29607

Dated this 30 day of June, 2001